APPENDIX G

Excerpts of Transcript - Sentence Conference Transcript dated 1/13/97

agreement -- what is in the plea agreement. You cannot read that plea agreement and come up with anything without -- without coming to the conclusion that she's not entitled to any reduction in her role in the offense. It just doesn't add up. The evidence in the plea agreement clearly supports that she not get a minimal four-level or three-level or two-level reduction. here's no evidence in that plea agreement that would support any such reduction. So I want -- I'm going to give both sides and the probation office is being directed to give me a full report on the role in the offense. I also want to know more about what -- do we have a full story in all the relevant conduct? I don't know whether I -- I may very well have. And Mr. Mistrett, was she interviewed by the probation office?

THE PROBATION OFFICER: Yes, your Honor she was interviewed by Officer Kretzer.

MR. MISTRETT: Yes, Judge.

THE COURT: All right. Just one second please. I want to read that to you.

I became a registered representative of series 7 licensed broker in New York City and worked for a firm called Refco, a commodities brokerage firm. Steve Weimer became a futures and options client of the desk I serviced. It was my job to train him and educate him on

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Whatever happened to the cars? I mean that's -- you're talking about a Mercedes 560. That's not at the low end. A Mercedes 560 goes for over a hundred thousand dollars. A Jaguar, we're talking about, is over 60 thousand dollars plus all the other taxes that are involved in that. It's a 200 thousand proposition here, just on the automobiles. Forget the 170 something. If the loss is 500 to 800 thousand dollars and we're adding the cars -- and assume she got no other benefit -- if that's true, add this mystery 170 something she almost got the full benefit of the whole entire loss. What are we talking about? Forget the hundred million dollars. I'm talking about the 500 to 800 thousand dollars.

MR. BRUCE: Judge, as I understand the position of the Second Circuit, if we're looking solely at her — at her conduct, she can't be a minor or a minimal participant, and that is where I think the Court is going.

THE COURT: Do you think that she, based on this plea agreement, those facts, that she would be entitled to any reduction?

MR. BRUCE: Based upon the 700 thousand, no.

THE COURT: Just read the plea agreement, Mr. Bruce. I know you didn't handle the plea, I know it was worked out in California. You look at the plea agreement, there's no way that you can justify a reduction of four

THE COURT: I want to know what your position is, Mr. Bruce, since you're an Assistant United States Attorney in the Western District of New York.

MR. BRUCE: We are essentially here, Judge, as of counsel to the U.S. Attorney's for the Central District of California, and we adopt their position.

THE COURT: All right.

MS. WERNER-SIMON: Your Honor, if I may?

THE COURT: Yes, you may.

MS. WERNER-SIMON: I filed that document. I wrote that document, and that document in order to be timely was faxed -- typed in my office and faxed here so that this office could file

it timely with the court's order. So, I take full responsibility for all statements contained in that document, Your Honor. If I may address the Court with respect to some issues, Your Honor, has brought up.

With respect to the Lewis case, I urge you under Lewis to consider solely the Loma Linda scheme, and to make your analysis solely on the Loma Linda scheme, The reason why I do that is; in the Lewis case, we're talking about an individual who, although, was involved in an overall tax scheme, ended up being charged in solely a conspiracy limited portion, and then this circuit talked about whether we could get a role adjustment. We're looking at the Lewis case in the light of the Schanooby case.